

EXHIBT B



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

United States Code Annotated
Title 15. Commerce and Trade
Chapter 47. Consumer Product Safety (Refs & Annos)

15 U.S.C.A. § 2052

§ 2052. Definitions

[Currentness](#)**(a) In general**

In this chapter:

(1) Appropriate Congressional committees

The term “appropriate Congressional committees” means the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) Children's product

The term “children's product” means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

(A) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

(B) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger.

(C) Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.

(D) The Age Determination Guidelines issued by the Commission staff in September 2002, and any successor to such guidelines.

(3) Commerce

The term “commerce” means trade, traffic, commerce, or transportation--

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(4) Commission

The term “Commission” means the Consumer Product Safety Commission, established by [section 2053](#) of this title.

(5) Consumer product

The term “consumer product” means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; but such term does not include--

(A) any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer,

(B) tobacco and tobacco products,

(C) motor vehicles or motor vehicle equipment (as defined by [section 30102\(a\)\(6\) and \(7\) of Title 49](#)),¹

(D) pesticides (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act),

(E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by [section 4181 of Title 26](#) (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Title), or any component of any such article,

(F) aircraft, aircraft engines, propellers, or appliances (as defined in [section 40102\(a\) of Title 49](#)),

(G) boats which could be subjected to safety regulation under chapter 43 of Title 46; vessels, and appurtenances to vessels (other than such boats), which could be subjected to safety regulation under title 52 of the Revised Statutes or other marine safety statutes administered by the department in which the Coast Guard is operating; and equipment (including associated equipment, as defined in [section 2101\(1\) of Title 46](#)) to the extent that a risk of injury associated with the use of such equipment on boats or vessels could be eliminated or reduced by actions taken under any statute referred to in this subparagraph,

(H) drugs, devices, or cosmetics (as such terms are defined in sections 201(g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act), or

(I) food. The term “food”, as used in this subparagraph means all “food”, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in sections 4(e) and (f) of the Poultry Products Inspection Act), meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

Such term includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site. Such term does not include such a device which is permanently fixed to a site. Except for the regulation under this chapter or the Federal Hazardous Substances Act of fireworks devices or any substance intended for use as a component of any such device, the Commission shall have no authority under the functions transferred pursuant to [section 2079](#) of this title to regulate any product or article described in subparagraph (E) of this paragraph or described, without regard to quantity, in [section 845\(a\)\(5\) of Title 18](#). See [sections 2079\(d\)](#) and [2080](#) of this title, for other limitations on Commission's authority to regulate certain consumer products.

(6) Consumer product safety rule

The term “consumer product safety rule” means a consumer products safety standard described in [section 2056\(a\)](#) of this title, or a rule under this chapter declaring a consumer product a banned hazardous product.

(7) Distribute in commerce; distribution in commerce

The terms “to distribute in commerce” and “distribution in commerce” mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(8) Distributor

The term “distributor” means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

(9) Import; importation

The terms “import” and “importation” include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.

(10) Manufactured

The term “manufactured” means to manufacture, produce, or assemble.

(11) Manufacturer

The term “manufacturer” means any person who manufactures or imports a consumer product.

(12) Private labeler

(A) The term “private labeler” means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(13) Retailer

The term “retailer” means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(14) Risk of injury

The term “risk of injury” means a risk of death, personal injury, or serious or frequent illness.

(15) State

The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Wake Island, Midway Island, Kingman Reef, Johnston Island, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(16) Third-party logistics provider

The term “third-party logistics provider” means a person who solely receives, holds, or otherwise transports a consumer product in the ordinary course of business but who does not take title to the product.

(17) United States

The term “United States”, when used in the geographic sense, means all of the States (as defined in paragraph (10)).²

(b) Common carriers, contract carriers, third-party logistics provider, and freight forwarders

A common carrier, contract carrier, third-party logistics provider, or freight forwarder shall not, for purposes of this chapter, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

CREDIT(S)

(Pub.L. 92-573, § 3, Oct. 27, 1972, 86 Stat. 1208; Pub.L. 94-284, § 3(b), (d), May 11, 1976, 90 Stat. 503; Pub.L. 97-35, Title XII, § 1213, Aug. 13, 1981, 95 Stat. 724; Pub.L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub.L. 110-314, Title II, § 235(a) to (c)(1), Aug. 14, 2008, 122 Stat. 3074.)

Notes of Decisions (27)

Footnotes

1 See Codifications note set out under this section.

2 So in original. Probably should refer to paragraph (15).

15 U.S.C.A. § 2052, 15 USCA § 2052

Current through P.L. 118-158. Some statute sections may be more current, see credits for details.

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